

THE EFFECTIVE DATE OF THIS ORDINANCE IS MARCH 7, 2006

ORDINANCE NO. 06-06-402

Re: Collective bargaining with the exclusive representative of certain employees in the Division of Fire and Rescue Services concerning wages and benefits

Section 2-8-7 of the Public Local Laws of Frederick County authorizes the Board of County Commissioners to enact an ordinance allowing voluntary collective bargaining concerning wages and benefits between the Board of County Commissioners and the employee organization that the Board of County Commissioners recognizes as the exclusive representative of certain employees in the Frederick County Division of Fire and Rescue Services. It is the desire of the Board of County Commissioners to engage in collective bargaining as permitted in Section 2-8-7.

The Board of County Commissioners held a duly advertised public hearing concerning this Ordinance on March 7, 2006. The public had an opportunity to comment on this Ordinance at the public hearing.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that Article IX, Sections 1-2-121 through 1-2-127 of the Frederick County Code, is hereby added to read as follows:

**ARTICLE IX. COLLECTIVE BARGAINING WITH EMPLOYEES
IN THE FIRE AND RESCUE SERVICES DIVISION.**

Section 1-2-121. Definitions.

The words used in this article shall have their normal accepted meanings except as set forth below.

Certification. The procedure whereby an employee organization is officially recognized as the employees' exclusive bargaining representative.

Collective bargaining. The process of meeting at reasonable times and places and negotiating in good faith on appropriate subjects as defined under this Article. This Article does not compel either party to agree to a proposal or to make a concession.

County. The Board of County Commissioners of Frederick County, Maryland.

Employee. A regular, nonexempt, uniformed employee at or below the rank of captain within the Frederick County Division of Fire and Rescue Services.

Employee organization. A labor or other organization in which employees participate and that has representing employees as one of its primary purposes.

Exclusive representative. The employee organization certified by the County to represent and bargain for eligible employees over wages and benefits.

Strike. Any concerted action to impede the full and proper performance of employment duties in order to induce, influence, coerce, or enforce demands for a change in wages, hours, terms, or other conditions of employment, including a total or partial:

- (A) Refusal or failure to report to work,
- (B) Refusal or failure to perform employment duties,
- (C) Withdrawal from work,
- (D) Work stoppage, or
- (E) Work slowdown.

Uniformed employee. An employee is considered uniformed if the employee works in a position that meets the following criteria:

- (A) The position is a non-administrative, active duty position;
- (B) The position requires certification by the Maryland Police Training Commission, the Maryland Fire and Rescue Institute or the Maryland Correctional Training Commission; and
- (C) The daily duties of the position could result in loss of life.

Section 1-2-122. Collective bargaining.

(A) *Authorized.* The County may negotiate wages and benefits with the employee organization it recognizes as the exclusive representative of its employees.

(B) *Memorandum of understanding.*

(1) The collective bargaining with the exclusive representative may include a memorandum of understanding concerning wages and benefits.

(2) The memorandum of understanding is not effective until it is ratified by a majority of the votes cast by the employees.

(C) *Agreement subject to funding by the County.* The County retains the right to approve or disapprove, in whole or in part, any additional funding required as the result of an agreement reached with the exclusive representative.

(D) *Binding interest arbitration prohibited.* Binding interest arbitration is not allowed.

(E) *Strikes prohibited; penalties.*

(1) An employee shall not engage in, induce, or initiate a strike.

(2) In the event of a violation of this subsection, the County will take whatever action it deems necessary to protect the public, including, without limitation, suspension of certification or any privilege acquired as the result of the certification; revocation of the right of an employee organization to represent employees; discipline, including termination of employment, of employees engaged in such illegal conduct; or application for relief in an appropriate court of law.

Section 1-2-123. Employee rights.

(A) Employees may form, join, and assist employee organizations for the purpose of bargaining collectively on wages and benefits through a representative of their own choosing.

(B) Employees also have the right to refrain from the activities described in paragraph (A).

Section 1-2-124. Management rights.

The County's obligations under this Article do not affect its exclusive right to:

(A) Direct employees in the performance of their assigned duties;

(B) Hire, promote, transfer, assign, lay off, recall, retain employees in positions, or to suspend, demote, discharge, or take other disciplinary action against employees;

(C) Maintain the efficiency of all County operations;

(D) Determine the method, means, and equipment by which operations are to be conducted; or

(E) Determine the mission of the County and take whatever actions may be necessary to discharge its responsibilities in emergencies.

Section 1-2-125. Certification of exclusive representative.

(A) *Submission of petition.* The County may certify an employee organization as the employees' exclusive representative if it receives a petition for the employee organization to be recognized by the County, which petition is signed by at least 51% of the employees indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining. If the petition submitted by the employee organization is signed by less than 51%, but at least 30%, of the employees indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining, the County shall conduct an election in accordance with subsections (B)(2) and (B)(3).

(B) *Acceptance by the County.*

(1) If the County does not challenge the validity of the petition within 30 days following receipt of the petition, the employee organization will be deemed certified as the exclusive representative.

(2) If the County challenges the petition's validity, or if the petition is signed by less than 51% , but at least 30%, of the employees indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining, the petitioner may ask the American Arbitration Association to appoint a third party neutral to conduct an election and certify whether the employee organization has been selected as the exclusive representative by a majority of the votes cast in the election.

(3) The County shall pay the costs of the American Arbitration Association when the election is held as the result of the County's challenge to a petition's validity. When an election is held because the petition contains the signatures of less than 51%, but at least 30%, of the employees, the exclusive representative shall pay the costs of the American Arbitration Association.

Section 1-2-126. Negotiation of wages and benefits.

(A) *Meetings with exclusive representative.* The County's negotiation committee appointed under Section 1-2-127 and the exclusive representative must meet at reasonable times, including meetings in advance of the County's budget-making process, and must negotiate in good faith with respect to wages and benefits, but such obligation may not compel either the County or the exclusive representative to agree to a proposal or require the making of a concession.

(B) *Number of participants.* During collective bargaining, each party is allowed to have an equal number of representatives participate in the negotiations.

(C) *Time limit on negotiation.* Negotiation with the exclusive representative should begin on or after November 15 of each year. The County is not required to negotiate collectively with the exclusive representative if the exclusive representative is not certified by November 15. Negotiations with the exclusive representative must be completed each year by the following February 15.

(D) *Subjects of negotiation.* Should an employee organization be certified as the exclusive bargaining representative, items to be collectively bargained are:

- (1) Wages; and
- (2) Benefits including, but not limited to:
 - (i) Deferred compensation plan;
 - (ii) Dental insurance;
 - (iii) Health insurance;
 - (iv) Holidays;
 - (v) Life insurance;
 - (vi) Paid leave;
 - (vii) Retirement or pension plan; and
 - (viii) Tuition assistance.

(E) *Nonnegotiable subjects.* All other terms or conditions of employment are not negotiable.

Section 1-2-127. Negotiation committee.

(A) *Appointment of committee.* The County Manager will form a committee to engage in collective bargaining with the exclusive representative.

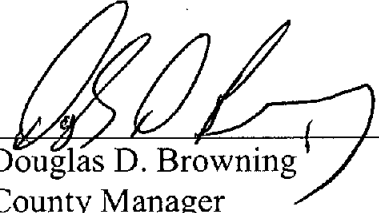
(B) *Supervision.* The County Manager will oversee the work of the committee.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS, that this Ordinance shall take effect on March 7, 2006.

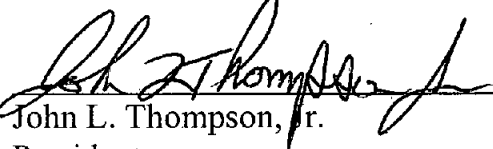
The undersigned hereby certifies that this Ordinance was approved and adopted on
the 7th day of March, 2006.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND



Douglas D. Browning
County Manager



John L. Thompson, Jr.
President

LIST
3-9-06